

AMENDED IN ASSEMBLY JUNE 10, 2014

AMENDED IN ASSEMBLY MAY 27, 2014

SENATE BILL

No. 1345

**Introduced by Committee on Natural Resources and Water
(Senators Pavley (Chair), Cannella, Evans, Fuller, Hueso,
Jackson, Lara, Monning, and Wolk)**

February 21, 2014

An act to amend Section 1798.5 of the Fish and Game Code, to amend Section 4597.22 of the Public Resources Code, and to amend Sections 8704.2, 73502, and 73514 of the Water Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1345, as amended, Committee on Natural Resources and Water. Natural resources.

Existing law prohibits a conservation bank, mitigation bank, or conservation and mitigation bank from being operative, vested, or final unless the Department of Fish and Wildlife has approved the bank in writing and, if applicable, a conservation easement has been recorded on the site. Existing law requires the department to follow certain procedures when a person is interested in establishing a bank, including the review of a bank prospectus. If the department determines that the bank prospectus is acceptable, existing law authorizes the person interested in establishing the bank to submit a bank agreement package.

This bill would require the Department of Fish and Wildlife, if it determines that the bank agreement package is acceptable, to approve the bank in writing within 30 business days.

The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations on timberland unless a timber

harvesting plan has been prepared by a registered professional forester and has been submitted to the Department of Forestry and Fire Protection and approved by the Director of Forestry and Fire Protection or the State Board of Forestry and Fire Protection. A violation of the act is a crime.

Existing law authorizes a person who intends to become a working forest landowner, as defined, to file a working forest management plan with the department, with the long-term objective of an uneven aged timber stand and sustained yield through the implementation of the plan. Existing law requires the working forest landowner who owns, leases, or otherwise controls or operates on all or any portion of any timberland within the boundaries of an approved plan, and who plans to harvest any of the timber during a given year, to file a working forest harvest notice, as defined, with the department in writing. Existing law exempts the Southern Subdistrict of the Coast Forest District, as described in regulations, from these provisions.

This bill would correct an erroneous cross-reference to the regulations describing the Southern Subdistrict of the Coast Forest District.

Existing law provides the Central Valley Flood Protection Board with the authority to construct and maintain various flood control works. Existing law makes it unlawful for any person or public agency to interfere with, obstruct the performance, maintenance, or operation of, or otherwise take actions that may adversely affect facilities of the State Plan of Flood Control, designated floodways, or streams that are regulated by the board. Existing law authorizes the board to order the removal, modification, or abatement of an encroachment, flood system improvement, or activity causing a violation, as specified, and to collect the costs from the responsible party by whatever legal remedy is available, including, the placement of a lien on the responsible party's property. Existing law authorizes the board or the board's designee to record the lien with the county clerk in the county where the party's property is located.

This bill would make a nonsubstantive change to these provisions.

Existing law, the Wholesale Regional Water System Security and Reliability Act, requires the City and County of San Francisco to adopt a specified program of capital improvement projects designed to restore and improve the bay area regional water system, as defined. Existing law requires, no later than 90 days after receiving from the city and county notice of certain changes to the program or postponements of the scheduled completion dates, the Seismic Safety Commission and

the State Department of Public Health to each submit to the city and county and the Joint Legislative Audit Committee written comments with regard to the significance of the change with respect to public health and safety. Existing law makes the act inoperative and repeals these provisions on January 1, 2015.

This bill would extend the time the Seismic Safety Commission and the State Department of Public Health would have to submit the written comments to 120 days and would extend the repeal date of the act to January 1, 2022. By extending the period of time during which certain requirements would apply to regional wholesale water suppliers and the City and County of San Francisco, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1798.5 of the Fish and Game Code is
2 amended to read:
3 1798.5. (a) (1) If the department determines that a bank
4 prospectus is acceptable pursuant to Section 1798, the person
5 seeking to establish the bank may submit a bank agreement package
6 to the department. Pursuant to subdivision ~~(b)~~ (c) of Section 1799.1,
7 the department may adopt and amend guidelines and criteria for
8 the bank agreement package, including, but not limited to,
9 recommended standard forms for bank enabling instruments or
10 long-term management plan and conservation easements.
11 (2) The bank agreement package shall be consistent with the
12 prospectus and contain at least all of the following information:
13 (A) The draft bank enabling instrument and all exhibits.
14 (B) Drafts of the interim management plan, long-term
15 management plan, bank closure plan, and, if applicable, a
16 development or construction plan for the bank.

1 (C) A draft conservation ~~easement~~, or *easement or*, if potential
2 state ownership is contemplated by the department, a draft grant
3 deed.

4 (D) A map and written description of the proposed bank service
5 area.

6 (E) A proposed credit ledger and credit release schedule for the
7 bank.

8 (F) A property analysis record or other comparable economic
9 analysis of the funding necessary to support bank maintenance
10 activities, such as monitoring and reporting, in perpetuity.

11 (G) Estimates of financial assurances and proposed forms of
12 security. Proposed forms of security may be either cash or a letter
13 of credit.

14 (H) A phase I environmental site assessment of the site of the
15 proposed bank dated not more than six months ~~prior to~~ *before* the
16 date the bank agreement package is submitted to the department.
17 This assessment shall be performed in accordance with the
18 American Society of Testing and Materials Standard E1527-05
19 “Standard Practice for Environmental Site Assessments: Phase I
20 Environmental Site Assessment Process” or any successive ASTM
21 standard active at the time of the assessment.

22 (b) The department shall collect a fee of twenty-five thousand
23 dollars (\$25,000) per bank agreement package to fund the cost of
24 the department’s review services. The fee shall be collected at the
25 time the bank agreement package is submitted to the department.

26 (c) Within 30 calendar days following the department’s receipt
27 of a bank agreement package and fee pursuant to subdivision (a),
28 the department shall determine whether or not the package is
29 complete and give written notice of the determination to the person
30 who submitted the package.

31 (1) If the department determines that the bank agreement
32 package is not complete, it may be made complete and resubmitted.

33 (2) If the department determines that the bank agreement
34 package is complete, within 90 calendar days of that determination,
35 the department shall determine whether or not it is acceptable and
36 notify the person who submitted the package of the determination.
37 If the department determines that the bank agreement package is
38 not acceptable, the department shall state the reasons.

39 (d) The department may request clarifying information during
40 the bank agreement review process.

1 (e) If the department needs supplemental information during its
2 review of the bank agreement package ~~in order~~ to fully evaluate
3 the proposed bank, the regional manager or departmental
4 equivalent, or a higher level department employee, shall provide
5 the person seeking to establish the bank a written request for the
6 needed information. Upon the department's receipt of the requested
7 information, a new 90-day period shall begin during which the
8 department shall determine acceptability pursuant to paragraph
9 (2) of subdivision (c). If the department does not receive the
10 requested information within 60 calendar days of the department's
11 request, the bank agreement package will be deemed unacceptable.

12 (f) If the person seeking to establish the bank proposes changes
13 to the bank agreement package that have not been solicited by the
14 department during its 90-day review period, including, but not
15 limited to, parties, number or type of credits, bank size, number
16 or type of species, credit release schedule, service area, design
17 change, or other changes as identified by the department as
18 necessitating additional review time, the department, acting through
19 the regional manager or department equivalent, or a higher level
20 department employee, shall assess a one-time fee of ten thousand
21 dollars (\$10,000) to cover the reasonable cost of the department's
22 services in reviewing the changes. A new 90-day review period
23 shall begin upon the department's receipt of the proposed changes
24 and the associated review fee, during which it will determine
25 acceptability pursuant to paragraph (2) of subdivision (c).

26 (g) If the department determines that 90 days is insufficient time
27 to complete its review of the bank agreement package for reasons
28 including, but not limited to, the size, location, or complexity of
29 the bank, that the package includes a development or construction
30 plan, complexity of the bank agreement package, or substantial
31 variations from recommended standard forms, the department may
32 extend the 90-day period for reviewing the bank agreement package
33 by an additional 60 calendar days.

34 (h) If the department determines that a bank agreement package
35 is not acceptable, the package may be resubmitted in accordance
36 with subdivision (a) if further consideration is desired. Any
37 resubmittal shall be accompanied by payment of a new bank
38 agreement package review fee.

39 (i) *If the department determines that the bank agreement*
40 *package is acceptable pursuant to paragraph (2) of subdivision*

1 (c), the department shall approve the bank in writing within 30
2 business days.

3 ~~SECTION 1.~~

4 SEC. 2. Section 4597.22 of the Public Resources Code is
5 amended to read:

6 4597.22. This article does not apply to the Southern Subdistrict
7 of the Coast Forest District, as described in Section 895.1 of Title
8 14 of the California Code of Regulations.

9 ~~SEC. 2.~~

10 SEC. 3. Section 8704.2 of the Water Code is amended to read:

11 8704.2. (a) Pursuant to subdivision (f) of Section 8701.4, the
12 board or the board's designee shall have the authority to record a
13 lien with the county recorder in the county of this state where the
14 person's or agency's property responsible for the violation is
15 located, to recover any and all of the following:

16 (1) Costs incurred in abating, removing, and restoring a
17 violation, including, but not limited to, costs incurred in seeking
18 modification, removal, abatement, or restoration pursuant to this
19 part.

20 (2) Costs incurred in the summary abatement of emergencies.

21 (3) Attorney's fees associated with actions to enforce this part.

22 (b) A lien recorded pursuant to this section shall have the same
23 force, effect, and priority as a judgment lien.

24 (c) Before recording a lien, the board shall provide notice and
25 an opportunity for a hearing to contest the amount of the lien.

26 (1) Notice shall be provided at least 20 days before the hearing
27 pursuant to Section 8703.

28 (2) The hearing required by this section may be satisfied by an
29 enforcement order hearing pursuant to Section 8701.4 or, in the
30 summary abatement of emergencies, a hearing pursuant to Section
31 8708.

32 ~~SEC. 3.~~

33 SEC. 4. Section 73502 of the Water Code is amended to read:

34 73502. (a) The city, on or before February 1, 2003, shall adopt
35 the program of capital improvement projects designed to restore
36 and improve the bay area regional water system that are described
37 in the capital improvement program report prepared by the San
38 Francisco Public Utilities Commission dated February 25, 2002.
39 A copy of the program shall be submitted, on or before March 1,
40 2003, to the State Department of Public Health. The program shall

include a schedule for the completion of design and award of contract, and commencement and completion of construction of each described project. The schedule shall require that projects representing 50 percent of the total program cost be completed on or before 2010 and that projects representing 100 percent of the total program cost be completed on or before 2015. The program shall also contain a financing plan. The city shall review and update the program, as necessary, based on changes in the schedule set forth in the plan adopted pursuant to subdivision (d).

(b) The plan shall require completion of the following projects:

| Project | Location | Project Identification Number |
|---|--|-------------------------------|
| 1. Irvington Tunnel Alternative | Alameda/Santa Clara Counties | 9970 |
| 2. Crystal Springs Pump Station & Pipeline | San Mateo County | 201671 |
| 3. BDPL 1 & 2-Repair of Caissons/Pipe Bridge | Alameda/San Mateo Counties | 99 |
| 4. BDPL Pipeline Upgrades at Hayward Fault | Alameda County | 128 |
| 5. Calaveras Fault Crossing Upgrade | Alameda County | 9897 |
| 6. Crystal Springs Bypass Pipeline | San Mateo County | 9891 |
| 7. BDPL Cross Connections 3 & 4 | Alameda/Santa Clara Counties | 202339 |
| 8. Conveyance Capacity West of Irvington Tunnel | Alameda/Santa Clara/San Mateo Counties | 201441 |
| 9. Calaveras Dam Seismic Improvements | Alameda County | 202135 |

(c) The city shall submit a report to the Joint Legislative Audit Committee, the Alfred E. Alquist Seismic Safety Commission, and the State Department of Public Health, on or before September 1 of each year, describing the progress made on the implementation of the capital improvement program for the bay area regional water

1 system during the previous fiscal year. The city shall identify in
2 the report any project that is behind schedule, and, for each project
3 so identified, shall describe the city's plan and timeline for either
4 making up the delay or adopting a revised schedule pursuant to
5 subdivision (d).

6 (d) (1) The city may determine that completion dates for
7 projects contained in the capital improvement program adopted
8 pursuant to subdivision (a), including those projects described in
9 subdivision (b), should be delayed or that different projects should
10 be constructed.

11 (2) The city shall provide written notice, not less than 30 days
12 before the date of a meeting of the city agency responsible for
13 management of the bay area regional water system, that a change
14 in the program is to be considered. The notice shall include
15 information about the reason for the proposed change and the
16 availability of materials related to the proposed change. All bay
17 area wholesale customers shall be permitted to testify or otherwise
18 submit comments at the meeting.

19 (3) If the city adopts a change in the program that deletes one
20 or more projects from the program, or postpones the scheduled
21 completion dates, the city shall promptly furnish a copy of that
22 change and the reasons for that change to the State Department of
23 Public Health and the Alfred E. Alquist Seismic Safety
24 Commission. The State Department of Public Health and the Alfred
25 E. Alquist Seismic Safety Commission shall each submit written
26 comments with regard to the significance of that change with
27 respect to public health and safety to the city and the Joint
28 Legislative Audit Committee not later than 120 days after the date
29 on which those entities received notice of that change.

30 ~~SEC. 4.~~

31 *SEC. 5.* Section 73514 of the Water Code is amended to read:
32 73514. This division shall remain in effect only until January
33 1, 2022, and as of that date is repealed, unless a later enacted
34 statute, that is enacted before January 1, 2022, deletes or extends
35 that date.

36 ~~SEC. 5.~~

37 *SEC. 6.* No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 a local agency or school district has the authority to levy service
40 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O